

paragraph 2 as a §103 rejection based on the combination of Fischer in view of Murray (U.S. Patent No. 3,958,509), and Applicant's response is thus directed.

Rejections Under 35 C.F.R. § 103(a)

The Examiner rejected claims 1-14, 16, 19-33, 35-36, 39-43, and 45-55 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,646,046 to Fischer et al. ("Fischer") in view of U.S. Patent No. 3,958,509 to Murray et al. ("Murray").

Non-Analogous Art

The Murray reference relied on by the examiner is not analogous art and is thus improperly used by the Examiner as the basis for rejection. As stated in §2141.01(a) of the MPEP, "[i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned."

The claims of the present application are directed to modifying data from a group or groups of laboratory instruments. Murray is directed to an image scan and ink control system for predetermining appropriate settings for the ink flow control devices of a printing press. A reference for a printing press ink-control system as disclosed in Murray is clearly not within the field of endeavor of one skilled in the art of the present application, which is directed to analysis of laboratory instruments.

In addition, the Murray reference is not pertinent to the problem at hand in the present application. The problem faced by present applicant, as stated in the specification, was facilitating the comparison of laboratory group results with peer group quality control results by mitigating differences in the instruments.

Murray, on the other hand, is directed to a lithographic printing press where ink is directed to the printing plate of a printing press. Several zones of an optical image of the printing plate are compared to a desired image, and the flow of ink to the printing plate is adjusted in response to that comparison. Levels between zones of the scanned image can be normalized in order to account for offset and span between the different zones. This adjustment is performed on the ink jets of an individual printing press based on the image scanned at that same printing press. There is no disclosure in Murray that suggests either sharing data or normalizing data between different printing presses.

Thus, one skilled in the art attempting to solve the problem faced by the present inventor, namely, facilitating the comparison of laboratory group results with peer group quality control results by mitigating differences in the instruments, would not even have considered Murray, which disclosed only single-instrument normalization in a completely non-analogous field. Murray, as set forth above, is not within the field of the Applicant's endeavor and is not pertinent to the problem faced by the present inventor. Thus, the cited Murray reference is not analogous art, and the rejection of claims 1-14, 16, 19-33, 35, 36, 39-43, and 45-55 is unsupported by the art and should be withdrawn.

Claims 1-14, 16, 19, and 41-43

In addition, with respect to claims 1-14, 16, 19, and 41-43, the Examiner specifically argues that Fischer teaches all of the steps of the claims of the present application except for obtaining data indicative of testing specimen outputs of a group of laboratory instruments and normalizing the data according to a control group. The Examiner further argues that the Murray patent, disclosing a system and method for controlling a printing process, teaches

obtaining data indicative of outputs of a group of devices and normalizing the data according to a control group, and further argues that it would have been obvious to one having ordinary skill in the art to include the Murray "group data collection and normalization" technique in the Fischer method in order to arrive at the claimed invention.

As discussed above, Murray is directed to an image scan and ink control system for predetermining appropriate settings for the ink flow control devices of an individual printing press. In Murray, ink is directed to the printing plate of a lithographic printing press. An optical image of the printing plate is divided into several zones which are then compared to a desired image, and the flow of ink to the printing plate is adjusted in response to the comparison. Levels between the zones of the optical image can be normalized in order to account for offset and span between the different zones. This adjustment is performed on an individual printing press, based on an optical image of the printing plate of that particular printing press. There is absolutely no teaching, suggestion, or disclosure in Murray that of combining or normalizing data collected on or between different printing presses.

The citations to Murray provided by the Examiner (page 4, lines 1-2 of Office Action) purporting to teach obtaining data indicative of outputs of a group of devices and normalizing the data according to a control group in fact only teach normalizing data on a particular printing press. The normalization in Murray is normalization of data from the various zones of the optical image from a specific printing press which is used to adjust the ink flow to the printing plate on that same press, not normalization of data from a group of printing presses.

As stated in MPEP §2143.01, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. The Examiner admits that Fischer does not teach obtaining data

indicative of outputs of a group of laboratory instruments and normalizing the data according to a control group. As discussed above, Murray teaches only normalizing the data from several different zones on the same press. Since there was no suggestion in the cited prior art to make the suggested combination or modification, the rejection of claims 1-14, 16, 19, and 41-43 is unsupported by the art and should be withdrawn, although even when combined the two references fall far short of teaching the presently claimed invention.

Claims 21-36 and 39-40

With respect to claims 21-36 and 39-40, the Examiner argues that the combination of Fischer and Murray teach a method and system that includes all of the subject matter of the claimed invention except for modifying data from more than one group of laboratory instruments, and that it would have been obvious to one having ordinary skill in the art to apply the method of the Fischer and Murray combination to more than one group of laboratory instruments.

As discussed above with respect to claims 1-14, 16, 19, and 41-43, MPEP §2143.01 states that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. The Examiner admits that Fischer does not teach obtaining data indicative of outputs of a group of laboratory instruments and normalizing the data according to a control group. Murray teaches only normalizing the data from several different zones on the same instrument. Since there was no suggestion in the prior art to make the suggested combination, the reference is improper, and the rejection of claims 21-36 and 39-40 should be withdrawn by the Examiner, although even when combined the references fall far short of teaching the presently claimed invention.

Furthermore, the Examiner argues that applying a known method (i.e., that taught in Fischer and Murray) to more than one group of laboratory instruments would have been obvious. In fact, applying the normalization method of Murray across several printing presses would render Murray inoperable. Murray requires an optical image of a printing plate be compared against a reference image, and the ink to the printing plate be adjusted according to that comparison. Adjusting the ink flow to a particular printing press based on an optical image from a different printing press would destroy the function of the Murray invention, in which the ink flow at a particular printing press is controlled by an optical image of the printing plate of that same printing press. A normalizing scheme between printing presses as suggested by the Examiner would destroy the functionality of Murray's control and reinforces the completely non-analogous notice of the Murray reference. For this reason too, the rejection of claims 21-36 and 39-40 is improper, and should be withdrawn.

In addition, by disclosing only a local normalization scheme and being functional only on an individual printing press, Murray in fact teaches away from the Examiner's proposed combination. As stated in MPEP §2145, it is improper to combine references where the references teach away from their combination. Thus, for this additional reason, the rejection of claims 21-36, and 39-40 is unsupported by the art and should be withdrawn.

Claims 45-54

With respect to independent claim 45, and dependent claims 46-54, the Examiner argues that Fischer teaches the method claimed in the present application except for standardizing instrument results from a plurality of laboratory instruments, and that it would

In view of the foregoing remarks, it is respectfully submitted that all claims of the application are now in condition for allowance and eventual issuance. Such action is respectfully requested. Should the Examiner have any further questions or comments which need be addressed in order to obtain allowance, he is invited to contact the undersigned attorney at the number listed below.

Acknowledgement of receipt is respectfully requested.

Respectfully submitted,

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